



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF APRIL 14, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-49 Bronco Wine Co. v. Espinoza, S113136. (C037254; 104 Cal.App.4th 598, mod. 105 Cal.App.4th 270g.) Petition for review after the Court of Appeal granted an original petition for a writ of mandate. This case presents the following issue: Is Business and Professions Code section 25241, which prohibits the use of the word “Napa” in a wine brand name unless at least 75 percent of the grapes from which the wine is made were grown in Napa Valley, preempted by federal regulations promulgated under the Federal Alcohol Administration Act, which imposed various requirements on wine labels and included a grandfather clause for holders of a Certificate of Label Approval (COLA) exempting them from prohibitions on the use of appellations of origin in brand names for wines?

#03-50 Olmstead v. Arthur J. Gallagher & Co., S113272. (A097117; 104 Cal.App.4th 858; San Francisco County Superior Court; 310158.) Petition for review after the Court of Appeal reversed an order denying attorney fees as sanctions in a civil action. The court limited review to the following issue: Does Code of Civil Procedure section 128.5 authorize the imposition of sanctions for bad faith conduct or litigation abuses in an action instituted after December 31, 1994, when the misconduct does not

(over)

involve a pleading abuse, or is the imposition of sanctions in an action filed on or after January 1, 1995, governed solely by Code of Civil Procedure section 128.7?

#03-51 Venegas v. County of Los Angeles, S113301. (B148398; 105 Cal.App.4th 636; Los Angeles County Superior Court; BC207136.) Petition for review after the Court of Appeal reversed a judgment of nonsuit of a civil action. This case includes the following issue: Are a county sheriff's criminal investigations actions that are carried out on behalf of the state or, alternatively, actions that are carried out on behalf of the county, for purposes of determining potential liability in a suit brought under the federal civil rights provisions set forth in 42 U.S.C. section 1983?

#03-52 People v. Minsky, S113966. (B155109; 105 Cal.App.4th 774, mod. 106 Cal.App.4th 303c; Los Angeles County Superior Court; BA175204.) Petition for review after the Court of Appeal affirmed a judgment of criminal offenses. The court ordered briefing deferred pending decision in People v. Edmonton, S112168 (#03-13), which presents the following issue: Does the element of "duress" for purposes of forcible sexual offenses other than rape and spousal rape include within its definition the concept of "hardship" that was deleted from the definition of "duress" for forcible rape and spousal rape (Stats. 1993, ch. 595, § 1), or does the deletion of "hardship" from the definition of "duress" in those statutes apply to the meaning of "duress" for all forcible sexual offenses?

STATUS

#02-70 People v. Floyd, S105225. The court limited review to the following issues: (1) Does the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), which requires probation and drug treatment rather than incarceration for defendants convicted of specified non-violent drug offenses, apply to defendants who were convicted and sentenced prior to the Act's effective date of July 1, 2001, but whose convictions were pending on appeal when the Act became effective, or only to defendants convicted or sentenced on or after July 1, 2001? (2) If the latter, does limiting the application of Proposition 36 in this fashion deny a defendant whose conviction was pending on appeal on that date the constitutional right to equal protection of the law?

#02-87 Palmer v. GTE California, Inc., S104997. The court limited review to the following issue: Is service of a file-stamped copy of the judgment on a party that intends to move for a new trial sufficient to trigger the jurisdictional time frames of Code of Civil Procedure sections 659 and 660?

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